

Chapter 76

Building Construction & Fire Prevention

Local Law for the Administration and Enforcement of the State and Town Building Codes

General References

Article I **General Provisions**

- 76-1 Title.** This chapter shall be known and cited hereafter as the “ Town of Hamburg Building Construction and Fire Prevention Code.”
- 76-2. Intent and Purpose.** It is the intent of this chapter to provide for the administration and enforcement of the provisions of all laws, codes, ordinances, regulations and orders applicable to:
- A. The location, design, materials construction, alteration, repair, equipment, maintenance, use, occupancy removal and demolition of buildings, structures and appurtenances within the Town.
 - B. Fire prevention and fire safety regulations consistent with nationally recognized good practices for safeguarding of life and property from the dangers of fire and explosions arising from hazardous conditions in the use or occupancy of buildings or premises and from the storage and use of hazardous substances, materials and devices.
- 76-3 Provisions for Administration and Enforcement.**
- A. The Town Board of the Town of Hamburg does hereby establish and maintain a functional entity hereafter referred to as the Department of Code Enforcement.
 - B. It shall be the purpose of this Department to execute and enforce the provisions of both state (as promulgated by 19 (NYCRR), Chapter XXXII, Part 1203) and all applicable local laws listed herein.
 - C. The Town Board shall appoint qualified personnel (namely Code Enforcement Officials and Fire Inspectors, duly certified by the Department of State Codes Division under the provisions of Title 19(NYCRR), Chapter XII, Part 435, who are responsible for the administration and enforcement in compliance with the applicable regulations of both

state and local laws.

76-4 Duties and Powers of the Code Enforcement Department

- A. Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the Department of Code Enforcement shall administer and enforce all provisions of laws, ordinances, rules and regulations applicable to the plans, specifications or permits for the construction, alteration and repair of buildings and structures regulated hereunder, the installation and use of materials and equipment therein, the location, use occupancy, conditions and maintenance thereof.
- B. The Code Enforcement Officers shall promulgate rules and regulations subject to the approval of the Town Board to secure the intent and purpose of this local law and a proper administration and enforcement of the laws, ordinances, rules and regulations governing the plans, specifications, construction, alteration, repairs, conditions or maintenance pertaining to buildings, equipment and other structures regulated hereunder.
- C. He shall receive applications, approve plans and specifications and issue permits for the erection, alteration and repairs of buildings, other structures and equipment regulated hereunder and shall examine the premises for which such applications have been received, approved plans or such permits have been issued for the purpose of insuring compliance with the laws, ordinances, rules and regulations governing same.
- D. He shall issue in writing all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the approved plans and specifications, the conditions of the building permit and the requirements of the applicable laws, ordinances, rules and regulations.
- E. Whenever the same may be appropriate to determine compliance with the provisions of the applicable laws, ordinances, rules and regulations covering the construction, alteration, repair or occupancy, he may, at his discretion, accept and rely upon written reports of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service inspection bureaus or agencies.
- F. He shall issue a certificate of occupancy where appropriate for a building or structure constructed, altered or occupied in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code and all other applicable laws, ordinances, rules and regulations.

- G. Code Enforcement Officers and/or Fire Inspectors shall have the authority to make fire prevention inspections in accordance with the Fire Prevention and Property Maintenance Code of New York, and may assist where practical, in determining the cause and origin of any fire occurring within the Town.
- H. Code Enforcement Officers and/or Fire Inspectors shall have authority and be accountable to inspect all structures afflicted by fire to assess damage and ascertain the appropriate measures to insure safety to the occupants and to safeguard the public from associated hazards created by the fire. These measures shall not be limited to implementing the removal of such hazards, ordering the immediate closing of the building, condemnation of the premises, securing the structure or put through necessary means to abate potential endangerments to life or safety.

76-5 Referenced Codes. The Town Board shall empower the designated personnel within the Department of Code Enforcement including all appointed Code Enforcement Officials, and Fire Inspectors to administer, enforce and otherwise perform all duties in respect to the State and Local Laws as follows:

- A. Under Title 19 NYCRR , Chapter XXXII, Part 1203 and in accordance with Subdivision 2 of Section 381 of the Executive Law with regard to the administration and enforcement of the Uniform Fire prevention and Building Code (hereafter referred to as “the Uniform Code”), the following adopted New York State codes listed and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

1. Building Code of New York State
2. Residential Code of New York State
3. Electrical Code of New York State
4. Fuel Gas Code of New York State
5. Mechanical Code of New York State
6. Plumbing Code of New York State
7. Property Maintenance Code of New York State
8. Fire Prevention Code of New York State
9. Energy Conservation Code New York State
10. Factory Manufactured Buildings (the provisions of 19 NYCRR in regard to factory manufactured structures installed in New York state shall apply).

- B. In accordance with Subdivision 3 of Section 20 of the Municipal Home Rule Law with regard to the administration and enforcement of the all applicable legislation adopted by the Town of Hamburg (hereafter referred to as “Local Law”), the following Local Laws listed and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

1.	L.L. No. 11-1994	Alarm Systems
2.	L.L. No. 9-1974	Brush, Grass and Weeds
3.	L.L. No. 5-1972	Buildings Unsafe
4.	L.L. No. 3-1993	Coastal Erosion Hazard Area
5.	L.L. No. 4-1968	Dead Trees
6.	L.L. No. 13-1979	Removal of Topsoil
7.	L.L. No. 10-1994	Flood Damage Prevention
8.	L.L. No. 6-1994	Junk Vehicles
9.	L.L. No. 5-1995	Lighting Nuisances
10.	L.L. No. 1-1991	Mobile Homes
11.	L.L. No. 1-1992	Transient Retail Merchants
12.	L.L. No. 22-1968	Sanitary Sewer Code
13.	L.L. No. 3-1969	Refuse Disposal
14.	L.L. No. 2-1995	Storage Trailers
15.	Chapter 232, Adopted 9-12-1966	Swimming Pool Code
16.	L.L. No.10-1986	Zoning

76-6 Applicability.

Where, in any specific case, different sections of this code specify different methods of construction or other requirements, the most restrictive shall govern.

76-7 Records and Reports

The Department of Code Enforcement shall keep permanent official records of all transactions and activities conducted by the Department, including all applications received, approved plans, permits and certificates issued, inspection reports, all rules and regulations under his jurisdiction and the notices and orders issued. Where applicable such records shall be considered public record and may be obtained through the Town Clerk under a freedom of information request procedure. In some cases depending on the magnitude of record, report or information requested, all cost associated with the retrieval, processing and reproduction of such records will be assessed. Once the costs have been determined they must be paid in full prior to dispersal of the request.

76-8 Penalties for Violations

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move

equip, use or occupy any building or other structure regulated hereunder, or portion thereof, or to store, handle, or use hazardous substances, materials or devices in violation of the New York State Uniform Fire Prevention and Building Code, this local law or other applicable ordinance or any regulation or rule promulgated by the Department of Code Enforcement in accordance with the applicable laws, or fail in any manner to comply with a notice, directive or order of the designated Code Enforcement Official or his representative issued pursuant to the New York Executive Law, the New York State Uniform Fire Prevention and Building Code, or this local law, or to construct, alter, use or occupy any building, structure, or premises regulated hereunder, or part thereof, or to store, handle or use hazardous substances, materials or devices in a manner not permitted by an approved building permit, fire prevention permit or certificate of occupancy or in strict accordance with the approved plans and specifications.

- B. It shall be unlawful for any person, firm or corporation to install, or cause to be installed, or to alter or repair electrical wiring on properties for light, cooling, heat or power in a manner not permitted by an approved electrical permit.
- C. Any person having been served with an order pursuant to the provisions of 19 NYCRR Chapter XXXIII, Subchapter A or B, or this local law who shall fail to comply with it within 30 days after such service or within the time frame fixed by Code Enforcement Department for compliance, and any owner, builder, engineer, architect, tenant, contractor, construction superintendent, or other agencies or any other person taking part or assisting in the construction, repair, alteration or use of any building, other structure or equipment regulated by 19 NYCRR Chapter XXXIII, Subchapter A or B or this local law, or any person storing, handling or using hazardous substances, materials or devices.

76-9 Permit Regulations

No work shall be undertaken which involves erecting, placing, altering, repairing or demolishing of any structure or part thereof, nor installation of electrical, plumbing mechanical systems including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto, except pursuant to a permit issued as provided by this article and unless such permit at the time of the doing of such work shall be in full force and effect.

A. Exceptions:

Exceptions to the requirement of a building permit are permitted under the following circumstances:

Necessary repairs of a minor nature that have no material effect to the structural features or alterations to existing buildings provided that they:

- 1.) Do not materially effect structural features; and
- 2.) do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits; and
- 3.) do not involve the installation or extension of electrical systems; and

- 4.) do not include the installation of solid fuel burning heating appliances and associated chimneys or flues.
- B. Parties who intend to undertake work subject to the provisions of this code shall be required to apply and obtain any required building permit prior to the commencement of the work. An application for a building permit shall provide sufficient information to enable the code enforcement official to determine if the proposed work conforms with all applicable codes and regulations. The following is the minimum information and documentation required upon submission of a building permit application, in order that it can be considered subject for approval:
- 1.) An identification and description of the proposed work; and
 - 2.) a description of the premises including tax map number and street address; and
 - 3.) the occupancy classification of the affected building or structure; and
 - 4.) construction documents (drawings and specifications) that define the scope of the proposed work; and
 - 5.) a copy of a contract or similar document which substantiates the total cost of the proposed work.
- C. Construction Documents shall not be accepted as part of the application for a building permit unless such documents:
- 1.) meet the provisions of New York State Education law including Article 147, Section 7308, as amended, of which stipulate that any new building construction, alteration or addition to any building or structure costing in excess of \$10,000 or which involves changes affecting the structural safety or public safety thereof, that a registered design professional including registered architect or licensed professional engineer certified in the State of New York State be employed in connection with the construction of such alterations buildings or additions, but not including uninhabitable structures. In such cases and to serve evidence of this requirement, all documents must have the original seal affixed to each sheet or page submitted.
 - 2.) indicate with sufficient clarity the nature and extent of the work proposed including but not limited to a projected total cost estimate of work and/or material list itemized to the satisfaction of the Code Enforcement Official.
 - 3.) substantiate that the proposed work will comply with the Uniform Code and applicable Hamburg Zoning law; and
 - 4.) include a current site plan that shows any existing structures on the site, including the location of any existing utility easement or septic system,

and indicate the location of the intended work as well as the distances between the structures and the lot lines.

D. Proof of Insurance

1. To assure compliance to Section 57 of the Workers' Compensation Law and Section 220, Subtitle 8 of the Disability Benefits Law of the State of New York, All applicants (prior to permit issuance) must submit proof that he or she has obtained workers' compensation and disability benefits coverage, or that he or she is not required to provide coverage under these laws.
2. Only forms acceptable to the New York Worker's Compensation Board will satisfy the requirement of certifying that worker's compensation insurance has been properly secured.

E. Licensing of Plumbing and Site Utility Contractors

In all cases where there is to be installation of new plumbing or alteration of existing plumbing, or sewer work, a plumbing/sewer permit must first be obtained by a licensed plumber or site utility contractor.

- F.** Application for a permit shall be made by the owner or lessee, or the agent of either, or by the architect, engineer or builder employed in connection with the proposed work. When such an application is made by a person other than the property owner, it is the applicant's responsibility to obtain the owner's authorization and permission to conduct the proposed work. The Code Enforcement Official may require an affidavit, signed by the property owner, indicating such approval and authorization.

Amendments to the application or to the plans and specifications may be filed at any time prior to completion of the work. Such amendments shall likewise be subject to the approval of the Code Enforcement Department and after approval, shall be filed with and be deemed a part of the original permit application.

76-10 Action on Application.

- A.** Applications for building permits shall be examined within a reasonable time after filing and if, after examination, it appears that the proposed work will be in compliance with the provisions of this chapter and other laws applicable thereto and that the proposed

construction or work will be safe, the application will be approved. If the examination reveals otherwise, the application will be returned as rejected, causing the applicant to make the necessary adjustments to bring the plans and specifications into compliance with the code.

Upon payment of the required fee and upon satisfactory proof being given that the applicant is in compliance with applicable provisions, rules and regulations of this chapter, a permit may be issued by and bear the name and signature of the Code Enforcement Official and applicants having proper authorization.

Any permit granted hereunder shall be limited only to the activity authorized on said permit, and its continued validity shall be subject to the conditions set forth on said permit.

The permit shall not be transferable and any change in the activity, size, extent or type of operation, location, ownership or use shall nullify the original permit as to require issuance of a new permit.

Each and every permit issued by the Code Enforcement Department under the provisions of this chapter shall expire and become null and void at the expiration of one (1) year from the date of issuance, unless within such period, an extension of such permit has been obtained from the Code Enforcement Department. The provisions of this section shall apply to any such extension.

- B. Permits shall continue until revoked or finalized as provided for herein or expire after a period of one (1) year. An extension of the permit time period may be granted, provided that satisfactory reason can be shown for failure to complete the work or activity authorized within the prescribed time period. For good cause shown, an application may be made for a six month period for an extension of said period upon payment of a renewal fee of one half ($\frac{1}{2}$) the original building permit fee. Permits can only be renewed twice or (one year beyond the original permit expiration date) and upon such expiration the work shall continue only if a new permit is granted at the discretion of the Code Enforcement Department.
- C. The acceptance of any permit issued pursuant to this chapter constitutes agreement and consent by the person to allow the Code Enforcement Official to enter the premises at any reasonable time to conduct inspections as required by this chapter. Refusal to allow the Code Enforcement Official or Fire Inspector to conduct said inspections of the premises and their records shall constitute justification for the revocation or suspension of said permit. In addition, should the Building Inspector or Fire Inspector deem it necessary, application may be made to any court of competent jurisdiction to obtain a warrant authorizing an inspection of the premises in question

76-11 Revocation.

The Code Enforcement Official and Fire Inspector shall have the authority to revoke permits issued by them in the following instances:

- A. The Code Enforcement Official may revoke any permit issued under the provisions of this code if it shall appear to them that there has been any false statement or misrepresentation as to a material fact in the application or any accompanying statement or plans upon which the permit was based.
- B. Where it is found that the permit as issued was in conflict with the requirements of any applicable code, ordinance, policy, procedure, rule or regulation and accordingly, should not have been issued.
- C. Where the person to whom a permit has been issued fails or refuses to comply with a stop-work order duly issued by the Code Enforcement Official in accordance with the provisions of this chapter.

76-12 Stop- work orders.

- A. Whenever the Code Enforcement Official has reasonable grounds to believe that work on any building or structure is proceeding without a permit or is otherwise in violation of the provisions of any applicable law, code, ordinance or regulation or is not in conformity with any of the provisions of the application, plans or specifications on which a permit was issued or being continued in an unsafe and dangerous manner, he/she shall notify either the owner of the property or the owner's agent, or the person or corporation performing the work to immediately suspend all work. In such instance any and all persons shall immediately suspend all related activities until the stop-work has been duly rescinded.
- B. Such stop-work order shall be in writing on a form prescribed by the Code Enforcement Official and shall state the reason for the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Official and shall be prominently posted at the work site. The posting of a stop-work order on the job site shall be deemed sufficient notice to suspend all work.

76-13 Fees

All permit and licensing fees collected shall be as specified herein or on the building permit schedule as approved from time to time by Town Board resolution.

- A. The fee for a permit issued as a result of a person not obtaining such permit prior to the start of construction shall be triple the cost of the original permit.
- B. Reinspection fee:
 - 1. A reinspection fee will be imposed against the permit holder, builder or developer to cover the cost of a repeat inspection under the following circumstances.
 - 2. When it can be verified by the Code Enforcement Officer that the builder/developer has scheduled an inspection with the Code Enforcement Department with the full knowledge that the work (scheduled for inspection) was substantially incomplete or deficient creating the need for subsequent inspection.
 - 3. If the permit holder or builder has not provided safe and/or adequate access to the premises necessary for the Code Enforcement Official to conduct a proper inspection. The Code Enforcement Department will affix the cost of any reinspection fees on the building permit. A certificate of occupancy will not be issued until such time that the cost of these fees are reimbursed to the town by the builder/owner and the work has been satisfactory completed.

76-14 Certificates of occupancy and compliance.

- A. No newly constructed building or addition shall be occupied or used, in whole or in part, until a certificate of occupancy has been issued by the Code Enforcement Official certifying that such building conforms substantially to the permit and requirements of laws, ordinances and rules applying to buildings of its class and kind. No other structure or construction issued a permit in accordance with the provisions of this chapter shall be used or otherwise put into service without issuance of a certificate of compliance by the Building Inspector certifying that the work for which the permit was issued has been completed substantially in accordance with the provisions of laws, ordinances and rules applying to such construction.
- B. In addition to the certification as to the compliance with the permit and the provisions of law, certificates of occupancy shall state the purposes for which the building may be used, in whole or in several parts, and may contain such special stipulations as the circumstances of the case may require, consistent with the provisions of law and ordinance.
- C. A certificate of occupancy shall be issued within Ten (10) days after application thereto if the building, at the time of such an application, is not unlawful, which certificate may be endorsed upon the building permit.

- D. The owner or his/her agent must submit to the Code Enforcement Department an “as built” survey, executed by a duly licensed surveyor or professional engineer verifying the true location of the new building or additions in reference to all the property line and existing structures.

76-15 Conditional occupancy.

Upon the request, the Code Enforcement Official may issue a conditional certificate of occupancy for a building or structure, or parts thereof, before the entire work covered by the permit has been completed, provided that the building or structure, or portion or portions to the extent completed, may be occupied safely without jeopardizing life or public welfare. A conditional certificate of occupancy shall specify the conditions that must be met before a final certificate of occupancy can be issued and shall specify an expiration date. The expiration date may be extended at the discretion of the Code Enforcement Official Building.

Conditional certificates of occupancy criteria.

- A. A conditional certificate of occupancy may be issued for a building, provided that all laws, rules, ordinances and regulations of the State of New York and Town of Hamburg, together with the following, as applicable in sole judgement of the Code Enforcement Official, are complied with:
 - 1. The conditional certificate of occupancy shall state a date upon which it shall automatically expire and become void.
 - 2. A list of all items remaining to be completed on the project site shall set forth on the temporary certificate of occupancy and a time limit stated by which date all items of work are to be completed.
 - 3. A cost estimate of the remaining work shall be submitted by the applicant in a form acceptable to the Code Enforcement Official, which cost estimate may be increased to reflect cost overruns or additional work necessary to complete required items.
 - 4. A letter of commitment shall be submitted with original signature affixed by the property owner and /or applicant and approved by Code Enforcement Department to the Town of Hamburg agreeing to complete the remaining work prior to the stipulated expiration date.

76-16. Existing buildings.

- A. Nothing in this code shall require the removal, alteration or abandonment of the lawful use and occupancy of a lawfully existing building except as may be necessary for the safety of life or property. Upon written request from the owner, the Code Enforcement

Officer shall issue a certificate of occupancy for an existing building, certifying the occupancy or use of such building after a verification by inspection, provided that at the time of issuing such a certificate there exists no violation of law or noncompliance with an order of the Code Enforcement Officer. [Amended 4-9-1984 by L.L. No. 3-1984]

- B. In the case of an existing building or structure built of material heretofore approved but now not conforming to the provisions of this code, wherein it is proposed to make minor alteration or addition, the Code Enforcement Officer may, in his discretion and when in his judgment the requirements of this code inflict an undue hardship, permit the use of such nonconforming materials in the making of such minor alterations or addition. Nothing in this subsection shall permit the violation of any state law or requirement, nor permit any construction that is hazardous or not structurally sound in the judgment of the Code Enforcement Officer. [Amended 4-9-1984 by L.L. No. 3-1984]

76-17. Change of occupancy. [Amended 4-9-1984 by L.L. No. 3-1984; 8-12-1996 by L.L. No. 9-1996]

- A. No change of occupancy or use shall be made in a building heretofore erected or altered, or property thereon, that is not consistent with the last issued certificate of occupancy for such building, without prior review and compliance approval from the Code Enforcement Department.
- B. In case of an existing building, no change of occupancy shall be made unless the Code Enforcement Officer finds upon inspection that such building and property thereof conforms to the provisions of law and of the ordinances with respect to the proposed new occupancy and use. He may in his discretion require the filing of plans and specifications showing the structural strength and type of construction of such building or, if warranted, refer the owner of such property to the Planning Board for site plan review before issuing such certificate.

76-18. Unsafe buildings. [Amended 4-9-1984 by L.L. No. 3-1984]

- A. A building or structure, or part thereof, that may be or shall at any time become unsafe by reason of bad condition of walls, overloaded floors, defective construction, deterioration or lack of safeguards against fire or other causes shall, unless made safe and secure after notice is herein provided, be taken down and removed by the owner or by the Town of Hamburg, its agents or representatives, at the expense of the owner. [Amended 8-12-1996 by L.L. No. 9-1996]
- B. A building or structure declared structurally unsafe by the Code Enforcement Department or damaged by fire may be restored to safe condition, provided that if the damage or cost of reconstruction or restoration is in excess of 50% of said building or structure, exclusive of foundations, and if such work of reconstruction or restoration is not begun in six months' period of time of being damaged by fire, such building or

structure, if reconstructed or restored, shall be made to conform to the requirements of new buildings as to materials and form of construction, but no change of use or occupancy shall be compelled by reason of such construction or restoration, except as provided in the Town Zoning Ordinance.

- C. Upon receipt of information that a building or structure or part thereof is unsafe or dangerous, the Code Enforcement Official shall make or cause to be made an inspection thereof, and if it is found that an unsafe condition exists or that the structure or part thereof has deteriorated to such an extent as to be dangerous, he shall serve or cause to be served on the owner, occupant or tenant a written notice requiring the same to be made safe and secure or to be removed from the premises. The Code Enforcement Official may, if he believes that the necessities of the cause so require, cause a notice to be attached to any such unsafe building or a building which has deteriorated to such an extent to be unsafe, stating that the same is dangerous, and no person shall deface, remove or in any manner place any obstruction to the view of such notice.
- D. In case there shall be, in the opinion of the Code Enforcement Official, actual and immediate danger of collapse of a building or structure, or any part thereof, so as to endanger public safety, life or property, he shall cause the necessary work to be done to render such building or structure, or part thereof, temporarily safe, or to demolish and remove the same, whether or not the procedure prescribed in the preceding sections shall have been commenced, and in such case, the Code Enforcement Official shall report the expense of such work to the Town Board, which shall order such expense to be assessed against the premises upon which such work was done.
- E. Prior to securing or demolishing such unsafe building or structure either by the town employees or pursuant to a contract, the Town Board shall notify the owner in writing of the actual cost of such work at the address of the property and at the address as indicated on the assessment roll of the Town of Hamburg by depositing a true copy of the same in a postpaid properly addressed wrapper in a post office official depository under the exclusive care and custody of the United States Postal Service within the State of New York. Such notice shall state the date, time and place where the Town Board shall hold a public hearing on the amount of such cost and that the owner may appear before the Town Board to contest or object to such amount. Such hearing shall be held not less than five days after serving of such notice. After such hearing the Town Board may confirm such amount, reduce it or increase it; however, if it increases the amount, it shall hold another public hearing on like notice of the increased amount. After the Town Board shall determine the final amount of costs, it shall adopt a resolution levying the same upon the land on which the unsafe building or structure is located. [Added 8-12-1996 by L.L. No. 9-1996]

76-19. Notice of violations and penalties.

- A. Whenever the Code Enforcement Official is satisfied that a building or structure or any

portion thereof or any work in connection therewith, which is regulated, permitted or forbidden by this code, is being erected, altered or repaired or has been erected, altered or repaired in violation of the provisions of this code or in violation of the plans and specifications pursuant to which a permit for such work has been issued, or where a building or structure or part thereof shall have become unsafe by reason of bad condition of walls, overloaded floors, defective construction, deterioration or lack of safeguards against fire or other causes, he may serve a written notice upon the person responsible therefor, directing discontinuance of such action or correction of the violation complained of and requiring compliance with the provisions contained in this code. Any person having been served with such notice or order shall comply with the requirements thereof within 10 days of service of said written notice. Service can be made personally or by registered or certified mail sent to the owner, or by substituted service in conformance with the Civil Practice Law and Rules, at the last address shown on the assessment roll covering said property. [Amended 9-12-1983 by L.L. No. 7-1983]

- B. Whenever, in the opinion of the Code Enforcement Official, the erection, alteration or repair of any building or structure is being carried on in violation of a provision or requirement of this code, he may order, orally or in writing, all further work to be stopped and may require suspension of work until such violation has been remedied.
- C. Any person, firm or corporation who shall violate a provision of this code or fail to comply with any of the requirements thereof or who shall erect, construct, alter, repair, place or demolish or has erected, constructed, altered, repaired, placed or demolished a building structure or part thereof or who has failed to remove a building or structure declared structurally unsafe by reason of bad condition of walls, overloaded floors defective construction, deterioration or lack of safeguards against fire or other causes in violation of a detailed statement or plan submitted and approved thereunder or of a permit or certificate issued thereunder shall be guilty of an offense which shall be punishable by a fine of not less than \$50 nor more than \$500, and each day such violation shall be permitted to exist shall constitute a separate offense; and a person, firm or corporation who shall own a building or structure or a part thereof that may be or shall at any time become unsafe because of the bad condition of walls, overloaded floors, defective construction, deterioration or lack of safeguards against fire shall be repaired forthwith, and the condition in violation of this code remedied forthwith or said building, structure or part thereof shall be directed to be removed and demolished.

76-20. Interpretations and variance provisions.

As stipulated within the context of this code, the Code Enforcement Official is duly responsible to interpret all relevant provisions to insure compliance. Upon application, any variance from strict compliance of the specifications relating to the state building code shall be referred to the New York State Board of Review Council pursuant to Title 19 NYCRR, Chapter XXXII Part 1205. The Code Enforcement Official is also authorized to make interpretations in regard to the Town Zoning code and pertinent Town Local Law. When deemed necessary the Code Enforcement Official may also refer such

interpretations to the Zoning Board of Appeals. Any appeal for variance or any modification of provisions of the Town Zoning code shall be referred to the Zoning Board of Appeals whereby subject to their approval may grant a variance in accordance with Article XXXIII.

76-21. Restrictions on garage permits.

No permit will be issued for the construction of a private garage or other similar outbuilding on any lot unless it is in compliance with zoning regulations applicable thereto. It is the intent of this section to prevent the construction of a garage or other outbuilding to be used for residence until such time as the residence may be built.

76-22. Parking provisions.

Each plan filed for the construction of any structure except a one- or two-family residence, shall provide sufficient parking area off the public highway to provide for all normal parking requirements of the structure to be built, all in accordance with regulations applicable thereto.

76-23. Grading.

- A. Grading shall conform to grades of adjacent property unless, by mutual agreement of adjacent owners, a new grade is established which is satisfactory to the Town Engineer.
- B. Grading in subdivisions with an approved grading plan shall conform to said plans unless, by mutual agreement of adjacent owners, a new grade is established which is satisfactory to the Town Engineer. [Added 3-23-1981 by L.L. No. 2-1981]
- C. Grading in subdivisions with no approved grading plan or on lots with no approved grading plan shall be approved by the Town Engineer. [Added 3-23-1981 by L.L. No. 2-1981]

76-24. Plumbing and Site Utility Work administrative rules and regulations.

- A. All plumbing and site utility work conducted in the Town of Hamburg shall be performed only by duly licensed plumbers. [Amended 4-12-1976 by L.L. No. 6-1976; 11-22-1976 by L.L. No. 10-1976; 8-15-1994 by L.L. No. 7-1994]

Exception: Any owner, working exclusively on the premises of which he or she resides and has obtained the necessary plumbing permit.

- (1) A licensed master plumber or journeyman plumber employing plumbers shall be present at all times when work is being performed on any premises within the

Town of Hamburg, exclusive of the Villages of Hamburg and Blasdell, involving the original installations, alterations or repair of plumbing as defined in § 76-24 of this article.

- (2) Applicants must have:
 - (a) Four years of vocational school plus two years of practical experience under the supervision of a master plumber; or
 - (b) four years of practical plumbing experience; or
 - (c) an equivalent combination of training and experience indicated in Subsection A(2)(a) or (b) above.

- B. Method of application for license. Any person who shall desire a license to conduct a plumbing business within the Town of Hamburg, exclusive of the Villages of Blasdell or Hamburg, shall apply in person and register his or its name and address with the Code Enforcement Official upon the application form prescribed by the Code Enforcement Department.

- C. Issuance of license. Code Enforcement Official shall issue a license authorizing said applicant to conduct such business in the Town of Hamburg upon being satisfied that the applicant has met the following conditions:
 - (1) Approval of Code Enforcement Official, evidenced by the receipt of a certificate from the Town Plumbing License examiner showing that such person, has satisfactorily passed an examination held by said examiner. The certificate must be dated within one year of the date of the application.
 - (2) Proof of financial responsibility. The applicant shall file with the Code Enforcement Department, a certificate of insurance protecting the town to the extent of the following limits: personal liability of \$300,000 and property liability of \$50,000.
 - (3) Payment of a fees as prescribed a master license, a journeyman license or site utility contractor.

- D. Use of license by others. No license holder shall allow his name or license to be used by any other person or party either for the purpose of obtaining permits or doing any work under his license. Plumbers will be held responsible for the violation of any rules of the Town Board by journeymen plumbers or others in their employ. [Amended 8-15-1994 by L.L. No. 7-1994]

- E. Transfer of license. A license cannot be transferred to any successor in the business or to any person whomsoever under any circumstances. [Amended 8-15-1994 by L.L. No. 7-1994]
- F. Expiration of license. All licenses shall expire on the 31st Day of December of the year issued and may be renewed within 30 days preceding expiration. [Amended 8-15-1994 by L.L. No. 7-1994]
- G. Renewals. A renewal license shall be issued by the Code Enforcement Department each year to any person holding a license at the expiration of the previous year, without examination, upon payment of the license fee and proof of financial responsibility. If, however, the application for the renewal license is not made within 30 days after the expiration of the prior existing license, such license shall be deemed to have lapsed. A new license shall not be issued except upon new application made pursuant to Subsections B and C of this section unless the licensee make payable all prior annual renewal fees.
- H. Examinations.
 - (1) It shall be joint responsibility of the Code Enforcement Official and duly appointed Plumbing License Examiner to have jurisdiction over and examine all persons desiring or intending to engage in the plumbing business, sewer installations or as employing plumbers in the Town of Hamburg with the power of examining persons applying for examinations, such as plumbers and site utility contractors, to determine their qualifications for conducting the business of plumbing and sewer construction and to issue certificates of competency to all such persons who shall have satisfactorily passed the examination before it determined to be qualified for conducting business as plumbers and site utility contractors within the Town. The Town Board (by resolution on an annual basis) shall appoint a qualified individual hereafter known as the Plumbing License Examiner. It shall be this individuals responsibility to preparing and monitor plumbing examinations in order to certify the that all applicants meet a satisfactory level of competency.
 - (2) The plumbing License Examiner shall hold an examination during each June and December hereafter, for site utility contractors, master and journeyman plumbers.
 - (3) Upon the request of a qualified applicant, a special examination may be held, at any time, at the discretion of the Supervising Code Enforcement Official. The expense of such special examination shall be established by Town Board Resolution, which amount shall be deposited with the Town Clerk by the applicant for such examination.
 - (4) Before an applicant shall be admitted to an examination, he shall file his application in writing with the Code Enforcement Department at least five days

before the examination date and shall pay to the Town Clerk the required examination fee. The names and addresses of applicants shall be forwarded by the Code Enforcement Department to the Town Clerk.

- I. Inspection of plumbing and site utility work. There shall be appointed as provided by law a duly certified Code Enforcement Official whose duties, in addition to those prescribed by law and those which may be prescribed by the Town Board, shall be to inspect the construction and alteration of all plumbing work performed in the Town of Hamburg and to report, in writing, the results of such inspection of such plumbing to the Code Enforcement Department, and he shall also report in like manner any person engaged in or carrying on the business of employing plumbers, without having the license herein provided.
- J. Notice of violation of rules.
 - (1) Whenever any Inspector or other person reports a violation of any rule or regulation for plumbing and drainage, or a deviation from any officially approved plan or specification for plumbing and drainage filed with the Code Enforcement Department, a notice of the violation thereof upon the person, firm or corporation doing the work, if a registered plumber.
 - (2) Such notice may be served personally or by mail, and, if by mail it may be addressed to such licensed plumber at the address registered by him or it with the Town Clerk, but the failure of a plumber to register will relieve the Town from the requirement of giving notice of violation. Unless the violation is removed within three days after the date of serving or mailing such notice, exclusive of the day of serving or mailing, the Code Enforcement Official may proceed with enforcement action according to law. A reinspection fee shall be charged.
- K. Violations; how punished.
 - (1) Any person violating the provisions of this article or any rules or regulations of the Town Code Enforcement Department and who fails to remove or correct such violations after notice as provided in Subsection J hereof shall be guilty of a misdemeanor and, on conviction, shall be subject to a fine of not more than \$500 or imprisonment for not more than 30 days, or both, and in addition, if a licensed plumber, shall forfeit his or its license. [Amended 4-9-1984 by L.L. No. 3-1984]
 - (2) All violations under this article shall be prosecuted in the name of the Inspector on behalf of the Town of Hamburg.
- L. Issuance of permits to connect with sewers restricted.

He (the officer having charge of various sewer districts in the Town of Hamburg) shall

not issue a permit to anyone to connect with the sewers in the Town of Hamburg, unless such person is duly licensed to conduct business in the Town of Hamburg.

- M. Plans and specifications. Plans and specifications of the work, together with an application signed by the owner or his agent for a permit, must be submitted to the Code Enforcement Official for approval, and a permit must be obtained before any part of the building or work is commenced. There shall be a separate plan for each building, public or private, accompanied by specifications describing the drainage of said building on blanks prescribed and furnished for this purpose, showing the size and kind of pipes, traps, closets, fixtures, etc., to be used, the same to be examined and placed on file with the Code Enforcement Department. A fee as determined by a schedule of fees, adopted by the Town Board, shall accompany each application.
- N. A further change in plans. Application for change in plans or work in the building must be made in writing by the plumber, duly signed by the owner or his agent, and a written permit obtained from the Code Enforcement Official before any part of the work is started. [Amended 4-9-1984 by L.L. No. 3-1984]
- O. [Added 12-18-1995 by L.L. No. 6-1995] Hamburg Master and Miscellaneous Sanitary Sewer Districts. The fee for a sewer permit to make any connection to the sanitary sewers in the Hamburg Master and Miscellaneous Sewer Districts shall be established at the following rates:
- (1) For single- or double-family dwellings, the fee shall be \$400.
 - (2) For multifamily housing, the fee shall be \$400, plus \$200 for each additional dwelling unit in excess of two dwelling units.
 - (3) For commercial or institutional facilities having sanitary facilities that are served by a domestic water service less than one inch in diameter, the fee shall be \$400. For those facilities served by a domestic water service which is equal to or greater than one inch in diameter but less than 1 1/2 inches in diameter, the fee shall be \$700. Facilities served by a domestic water service which is equal to or greater than 1 1/2 inches in diameter but less than two inches in diameter, the fee shall be \$1,500.
 - (4) Facilities served by a domestic water service which is equal to two inches in diameter, the fee shall be \$2,000. Any facility served by a domestic water service which is greater than two inches in diameter, the fee shall be determined based on the size of the water service, and such fee shall be calculated by the Town Building Inspector. NOTE: Water services used for the sole purpose of fire protection shall not be considered in the determination of sewer permit fees.
 - (5) The fee for a permit to make any connection within sanitary sewers tributary to the Village of Blasdel Sewage Treatment Plant shall be reduced by 50%.
- P. [Added 12-18-1995 by L.L. No. 6-1995] Erie County Sanitary Sewer District No. 2. The

fee for a sewer permit to make any connection to the sanitary sewers in the Erie County Sanitary Sewer District No. 2 shall be established at the following rates:

- (1) For single- or double-family dwellings, the fee shall be \$50.
- (2) For multifamily housing, the fee shall be \$50, plus \$25 for each additional dwelling unit in excess of two dwelling units.
- (3) For commercial or institutional facilities having sanitary facilities that are served by a domestic water service less than one inch in diameter, the fee shall be \$50. For those facilities served by a domestic water service which is equal to or greater than one inch in diameter but less than 1 1/2 inches in diameter, the fee shall be \$75. Facilities served by a domestic water service which is equal to or greater than 1 1/2 inches in diameter but less than two inches in diameter, the fee shall be \$200.
- (4) Facilities served by a domestic water service which is equal to two inches in diameter, the fee shall be \$350. Any facility served by a domestic water service which is greater than two inches in diameter, the fee shall be determined based on the size of the water service, and such fee shall be calculated by the Town Building Inspector. NOTE: Water services used for the sole purpose of fire protection shall not be considered in the determination of sewer permit fees.

Q. [Added 12-18-1995 by L.L. No. 6-1995] Northeast Hamburg Erie County Sanitary Sewer District No. 3. The fees for a sewer permit to make any connection to the sanitary sewers in the Northeast Hamburg Erie County Sewer District No. 3 shall be established at the following rates:

- (1) For single- or double-family dwellings, the fee shall be \$200.
- (2) For multifamily housing, the fee shall be \$200, plus \$100 for each additional dwelling unit in excess of two dwelling units.
- (3) For commercial or institutional facilities having sanitary facilities that are served by a domestic water service less than one inch in diameter, the fee shall be \$200.
- (4) For those facilities served by domestic water service which is equal to or greater than one inch in diameter but less than 1 1/2 inches in diameter, the fee shall be \$350. Facilities served by a domestic water service which is equal to or greater than 1 1/2 inches in diameter but less than two inches in diameter, the fee shall be \$800.
- (5) Facilities served by a domestic water service which is equal to two inches in diameter, the fee shall be \$1,400. Any facility served by a domestic water service which is greater than two inches in diameter, the fee shall be determined based on

the size of the water service, and such fee shall be calculated by the Town Building Inspector. NOTE: Water services used for the sole purpose of fire protection shall not be considered in the determination of sewer permit fees.

76-25. General regulations.

- A. Use of public sewers required. Where a public sewer is accessible in a street, alley, easement or thoroughfare to a building or premises abutting thereon, the liquid waste from any plumbing system in said building shall be discharged into the public sewer unless otherwise prohibited.
- B. Sewage treatment required. Where the liquid wastes from any plumbing are not discharged into a public sewer, such wastes shall be so treated or disposed of as recommended by the Erie County Health Department.
- C. Septic tank location. Septic tanks to be located as recommended by the Erie County Health Department.
- D. Harmful wastes in sewers.
 - (1) Corrosive or harmful wastes and wastes at a temperature higher than 180° F. shall not be discharged into a public sewer.
 - (2) Such wastes shall not be discharged into a plumbing system to which water closets, bathtubs, lavatories or other household plumbing fixtures are connected. The plumbing system designed to receive such wastes shall be of material capable of resisting the destructive action of such wastes.
 - (3) When fixtures discharge wastes at a temperature higher than 180° F., they shall be provided with a satisfactory cooling device.
- E. Explosive or inflammable matter in sewers.
 - 1.) No explosive or inflammable matters shall be discharged into any sewer.
 - 2.) Cleaning establishments, buildings used for housing or repairing automobiles, gasoline and oil service stations and other buildings or establishments where gasoline, oils, calcium, carbide or other explosives or inflammable materials are stored, sold or handled, the drains from which are connected to the public sewers must be provided with an approved intercepting pit or tank so constructed, located and maintained as to prevent the entrance into the sewer of such explosive or inflammable matter.
- F. Protection of material. All pipes passing under or through walls shall be protected from breakage. No metal pipes shall pass through or under cinders, slag or other corrosive material.

- G. Workmanship. Workmanship shall be of such character as fully to secure the result sought to be obtained in all of the sections of this code.
- H. Installation of inside plumbing by owner. All inside plumbing installed by the owner himself, who shall occupy the building as his home, shall comply with the requirements of this code, and in such event the word "owner" shall be substituted for the word "plumber" throughout this code, with the exception that the license requirement will be waived.

76-26. Electrical inspection.

- A. Electrical Inspector. The Supervising Code Enforcement Officer and each of the duly appointed Inspectors of any electrical inspection company or agency which has been approved by local electric utilities and which has submitted to the Town of Hamburg proof of satisfactory liability coverage are hereby authorized and deputized as agents of the Town of Hamburg to make inspections and re-inspections of all electrical installations heretofore and hereafter described and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and re-inspections be a charge against the Town of Hamburg. [Amended 4-9-1984 by L.L. No. 3-1984]
- B. Duties of the Electrical Inspector.
 - 1.) It shall be the duty of the designated Inspector to report in writing to the Code Enforcement Department Inspector, whose duty it shall be to enforce all provisions of this code, all violations or deviations from or omissions of the electrical provisions of the New York State Uniform Fire Prevention and Building Code applicable to the Town of Hamburg and of all local laws, ordinances and the New York State Uniform Fire Prevention and Building Code, as referred to in this article, insofar as any of the same apply to electrical wiring. The Inspector shall make inspections and reinspections of electrical installations in and on properties in the Town of Hamburg upon the written request of an authorized official of the Town of Hamburg or as herein provided. The Inspector is authorized to make inspections and reinspections of electrical wiring, installations, devices, appliances and equipment in or on properties within the Town of Hamburg where he deems it necessary for the protection of life and property. In the event of an emergency, it is the duty of the Inspector to make electrical inspections upon the oral request of an official or officer of the Town of Hamburg. [Amended 4-9-1984 by L.L. No. 3-1984]
 - 2.) It shall be the duty of the Inspector to furnish written reports to the proper

officials of the Town of Hamburg and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. He shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this article. He shall direct that a copy of the certificate of compliance be sent to the Town of Hamburg to the attention of the Code Enforcement Department.

- C. Violations of the local law. It shall be a violation of this article for any person, firm or corporation to install, to cause to be installed or to alter electrical wiring for light, heat or power in or on properties of the Town of Hamburg until an application for inspection has been filed with any electrical inspection company or agency which has been approved by local electric utilities and which has submitted to the Town of Hamburg proof of satisfactory liability coverage. It shall be a violation of this article for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source of electrical energy supply prior to the issuance of a temporary certificate or a certificate of compliance by the New York Board of Fire Underwriters. [Amended 4-9-1984 by L.L. No. 3-1984]

76-27. Special regulations. [Amended 4-9-1984 by L.L. No. 3-1984]

In cases where the New York State Uniform Fire Prevention and Building Code has referred to local jurisdiction, in the absence of a local law, the designated Code Enforcement Official shall be the local authority having jurisdiction.

76-28 Effective date.

- A. This article shall take effect immediately.

**LEGAL NOTICE
TOWN OF HAMBURG
NOTICE OF HEARING ON PROPOSED LOCAL LAW #2, 2005**

PLEASE TAKE NOTICE, that there has been presented to the Town Board of the Town of Hamburg on February 14, 2005, pursuant to the Municipal Home Rule Law, proposed local law to be known as proposed Local Law #2, 2005, said law provides for the establishment of amended Building Construction & Fire Prevention Code to replace Local Law No. 5, 1965, Building Code.

THEREFORE, pursuant to the statutes and provisions of the Municipal Home

Rule Law, the Town Board of the Town of Hamburg will hold a public hearing on the 28th day of February, 2005 at 7:00 p.m. (local time) at which time all interested persons may be heard.

Dated: February 8, 2005

Catherine Rybczynski
Town Clerk
Town of Hamburg

Pre-filed Resolution for the February 14, 2005 Town Board Meeting

WHEREAS, the Town Board of the Town Hamburg recognizes that its current Building Code adopted by the Town under Local Law No. 5-1965 has become obsolete by nature of its age, and due to the fact that the State has adopted new codes which impact the conduct of code enforcement duties within the Town of Hamburg and,

WHEREAS, numerous new practices over time have been rendered without the prescriptive guidelines supported by local Town law and,

WHEREAS, amendments to the existing “Building Code” are of such large scope and magnitude, that it been found necessary and appropriate to replace the current out dated code with a new one.

NOW THEREFORE, be it resolved that the Town Board approve the proposed Building Construction and Fire Prevention Code to move ahead toward adoption as local law under Municipal Home Rule Law procedure.

WHEREAS, at the Town Board meeting held on January 24, 2005, the Town Board approved the new building permit fee schedule under resolution Number XV. and,

WHEREAS, it has determined that it would be more prudent to adopt such fees after the proposed new “Building Construction & Fire Prevention Code” has been approved .

NOW THEREFORE, be it resolved that the Town Board rescind resolution Number XV of Meeting No. 2 and strike said resolution from the documented minutes recorded from that meeting.